

changes have been made because that will determine what first amendments might be offered or what the tone of the debate will be as we open this legislation. I am sure we are going to be able to go to the Patients' Bill of Rights in a reasonable period of time, but at this time I have been asked to object. So I object.

The PRESIDING OFFICER (Mr. WARNER). Objection is heard.

Mr. REID. Mr. President, I say before my friend leaves that we have copies of the legislation, and we will be happy to let anyone who wants look at it. I hope, as the minority leader indicated, that we can move to this bill tomorrow. If not, of course, there are other procedural things we can do to get to it eventually.

I have spent time with Senator GREGG in recent weeks, and he is a pleasant man to be with. I know Senator FRIST is well advised about this legislation. This has been going on for years, and we hope we can finally dispose of it one way or the other in the near future. I not only appreciate what the Senator has said but the tone in which he said it. We look forward to seeing if we can work it out tomorrow.

#### ORDERS FOR TUESDAY, JUNE 19, 2001

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 10 a.m., Tuesday, June 19. I further ask consent that on Tuesday, immediately following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate begin a period for morning business at 11:30 a.m., with Senators permitted to speak for up to 10 minutes each, with the following exceptions: Senator KYL from 10 a.m. to 10:30 a.m.; Senator BROWBACK from 10:30 a.m. to 10:40 a.m.; Senator DURBIN, or his designee, from 10:45 a.m. until 11:30 a.m., with Senator HOLLINGS in control of 10 minutes of Senator DURBIN's time.

Further, I ask unanimous consent that tomorrow, after the morning business hour has expired, the Senate be in recess from 12:30 p.m. until 2:15 p.m. for the weekly party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PROGRAM

Mr. REID. Mr. President, on Tuesday the Senate—as I have talked with the minority leader today—will convene at 10 a.m. with a period for morning business until 11:30 a.m. If agreement is reached, the Senate will begin consideration of the Patients' Bill of Rights on Tuesday at 11:30 a.m. The Senate, as I said, will recess from 12:30 p.m. to 2:15 p.m.

#### ORDER FOR ADJOURNMENT

Mr. REID. Mr. President, I ask unanimous consent that following the remarks of Senators SPECTER, KENNEDY, and HELMS, the Senate stand in adjournment under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### HEALTH CARE

Mr. KENNEDY. Mr. President, tomorrow I am very hopeful we will at long last have the opportunity to consider, again, legislation to protect American patients from HMO abuses. Across the country, we have seen abuses as a result of HMOs interfering with the decisions being made daily by doctors, nurses, and family physicians. Health care professionals are seeing their decisions overruled by HMO accountants who, in many instances, are many miles away. These accountants do not have the professional training that the doctors and the nurses initially making that judgment and decision have received. They are not seeing the patient and are more interested in the bottom line for the HMO rather than the good outcome for the patient.

This legislation has been out there for nearly 5 years. During that period of time, we have had some debate. We have had some votes in the Senate, but it seems to me we now have a chance to finally give Americans the protections they want and deserve.

I will take a few moments this afternoon to review, once again, what this legislation is about. This legislation recognizes that managed care too often means "mismanaged" care. We have the opportunity to change that. We should change it and establish a minimum standard of quality care. If individual States want to build on those standards, that should be the decision for the States, but we ought to establish a minimum standard. That is what this legislation, before the Senate tomorrow, will do.

This legislation basically incorporates the protections which are already in effect in the Medicare and Medicaid protections. Many of the protections included in this bill have been recommended by insurance commissioners who are not Democrats or Republicans. Actually, if you looked, there are probably more Republicans than Democrats among this group. A few protections included in the bill are the result of the unanimous bipartisan commission, set up 3 years ago, that made a series of recommendations. The

protections included here reflect a unanimous vote by the commission.

I will review them quickly. It is important we understand the introduced proposal now known as the McCain-Edwards legislation. I am a strong supporter. Senator DASCHLE is a strong supporter, as well as others. Over the weekend, more than 44 State medical societies wrote their Senators indicating their strong support for this legislation. As of this afternoon, more than 600 health organizations from across the country support the McCain-Edwards legislation.

I would be surprised if the other side can find about 15 supportive organizations. Virtually the entire medical community—not only the professional doctors, nurses, consumers, but the advocates—understand the importance of this legislation and support it, along with the senior organizations. The disability community understands this legislation. This bill provides care for children and others that have special needs as a result of their condition. Virtually every health organization supports it. This bill has bipartisan support.

Sixty-three Republicans effectively supported this legislation in the House of Representatives, and it has bipartisan support in the Senate. I daresay if one asks Republicans or Independents across the country—whether in the upper parts of the State of Maine, southern Florida, California, or the State of Washington—this bill has common interest and common concern across the Nation. So many of the issues we deal with in the Senate have support only in one region of the country among one particular group, and they usually face strong opposition in other parts of the country.

The principal opposition—the singular opposition—is the insurance companies and the HMOs. If one looks at the breadth of support on our side, it is not just the bipartisan membership bringing this and supporting this, Republicans and Democrats alike. Dr. NORWOOD in the House of Representatives, Congressman GANSKE, and others in the House of Representatives—along with Congressman DINGELL support the bill. In the Senate, we have Senator MCCAIN and others, including Senator SPECTER, who is on the floor at this time, and other Members who support this concept.

It is understandable because this bill has compelling reason for protections. They are commonsense protections. First, we want to protect all patients. That is very fundamental and important. We don't want legislation that alleges coverage for all, but creates sufficient loopholes so large numbers of our American families will not be covered. President Bush has recognized this principle. He wants to make sure all families and all patients will be covered.

We talk about access to specialists. It includes out-of-network service. I can remember in my own family situation, my son Teddy was 12 years old,

and he had a particular type of cancer—Osteosarcoma. About 1,500 children have this kind of cancer every year. It took a child pediatric oncologist who could understand his real needs and was able to make the recommendations for treatment of that particular need. We want to make sure if other families have either children or loved ones who need the kind of specialty care that is outside of the network, then they will be able to access the best of the specialty's trained medical professional. We want to make sure it is guaranteed. In too many instances today, it is not guaranteed.

We want to make assure care coordination and standing referrals. This is especially important for individuals who have a disability, so they don't have to go back every single time to their primary care physician for a referral. We need care coordination and protections particularly because some patients have complicated, involved health care needs or disabilities. This is enormously important. It is a feature the disability community cares so much about. It makes sense and provides savings for resources.

Next, this bill protects coverage for clinical trials. A lot of Members say they support clinical trials. We voted on this issue in the Senate not along ago. We did not guarantee access to clinical trials. There is a decline in the number of clinical trials at the present time—at a time when we are supporting dramatic increases in the NIH budget, and at the time of the century that we will see the greatest progress in the life sciences that we have ever seen.

As the previous century was the age of engineering, chemistry, and physics, this is the century of the life sciences. When we pick up a newspaper each day, we find that new breakthroughs are taking place. The only way we can get the breakthroughs from the laboratory to the bedside is through clinical trials. We have to make sure we encourage clinical trials. We are seeing a decline in the number of clinical trials because the industry will not continue to support these programs.

We will have a chance to get into this in greater detail. Obviously, when we debate clinical trials, the additional kinds of health care costs that are entailed should be covered by the clinical trials. But there should be basic coverage for that individual who has a health care need that should be continued by the insurance company.

It is always amazing to me why insurance companies or HMOs will not support it. If the person gets better as a result of the clinical trials, it is going to save the health plan resources, and it is not going to put them at greater risk.

Next, coverage for emergency care. In too many instances, if patients go to another emergency room or another emergency care facility or hospital, the HMO will not cover it. That makes absolutely no sense.

Direct access to OB/GYN providers and pediatricians is enormously important. It is an issue that is of primary concern to women, so they can have the OB/GYN as their primary care doctors. Certainly for primary care physicians, the need for pediatricians for children ought to be very clear and supported.

The PRESIDING OFFICER. The Chair wishes to advise the distinguished Senator from Massachusetts that the standing order of the day is limiting Senators to 10 minutes during this period of morning business.

Mr. KENNEDY. Mr. President, I see my friend from Pennsylvania. Could I go for 10 more minutes? I ask unanimous consent for 10 more minutes.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

Mr. KENNEDY. We want to make sure the patients receive the prescription drugs that their doctors prescribe. This is not always the case. It is difficult to believe, but it is not the case in too many HMOs.

The list goes on. This bill prohibits clauses which frequently gag medical professionals and doctors from recommending what is best for patients. This bill also prohibits financial incentives to deny care.

It is difficult for most of us to believe what exists in many HMO contracts at this time. Many have major financial incentives for doctors—if they do not prescribe certain care, doctors can enhance their financial situation. Any legislation ought to have that particular protection, as well as protections for the providers who advocate for patients.

We want to make sure we have a good internal appeals process conducted in a timely way. So if there is a question of getting the treatment, it is done in a timely way. We also need a timely independent external appeals process.

There are those who think if the HMO makes a recommendation on appeal, then that is good enough. Recommendations should be independent. In States with the external appeals process, it is done independently. We should do no less. We will have a chance to debate that. Surprisingly, it is debatable, but the protection makes a good deal of sense.

Health plans should be held accountable in Federal court when contract disputes result in injury or death. Plans should be held accountable in State courts when a disputed medical judgment results in injury or death. The judicial conference has made these recommendations, and it is, by and large, the situation we have in the State of Texas at the present time. Since 1997, we have seen only a handful of suits take place.

If the Chair will let me know when I have 1 minute left, please?

Let's take a look here, once again, why it is so important to pass this bill. I will do this very quickly. Every day we fail to act, this is what it means in

terms of American patients being hurt. The number of patients affected every day from health care abuse—from delay in needed care—is 35,000; from delay in specialty care, the number of patients affected every day is 35,000; and from HMOs forcing patients to change doctors, 31,000 patients are affected each day. As a result of that, 59,000 patients every day have added pain and suffering, and 41,000 patients every day experience worsened conditions. That is happening every single day. That is why we believe it is so important to provide protections.

Doctors know that congressional delay means patient suffering. That was the result from a study by the Kaiser Family Foundation. It illustrates that 14,000 doctors each day see patients suffering from serious decline in their health because of abuses by health plans. It happens from health plans denying coverage of physician recommended prescription drugs.

Each day, 14,000 doctors prescribe prescription drugs, and patients do not receive these necessary drugs.

There are 10,000 doctors every day recommending various diagnostic tests so they can analyze the health care needs of their patients, but patients are denied coverage for these tests. And there are 7,000 doctors who are recommending specialty care for their patients. They have made the decision and have found it necessary, but the specialty care is being denied. There are 6,000 doctors who say patients ought to stay overnight in the hospital, but it is being denied. And there are 6,000 doctors who see their referral for mental health or substance abuse treatment denied—every single day, that is happening.

This is why we need to address this situation across this country—north, south, east, and west. We ought to establish a basic floor of protections. We ought to have accountability, because when we have accountability, HMOs do the correct thing.

If we look at what has happened, we just finished 8 weeks on the floor of the Senate where rarely a speech was made about education when we did not hear about accountability. Remember that? We are going to have accountability for children, third grade through eighth, for taking tests. We are going to have accountability for schools. If they don't shape up, they will be restructured and reorganized. Accountability on the parents, accountability on the States—accountability, accountability, accountability.

This is all we are saying—when we have accountability, which means when a decision is made by an HMO that overrides a doctor's decision, and that decision results in harm, death, or injury to a patient, the HMO should be held responsible for its decision.

When we include this protection in HMOs, we find the number of harmful decisions falls. If you look at the State of Texas where they have had this protection in effect for 3½ years, they

have had about a dozen cases. If you look at the State of California—which has a very tough protection not dissimilar from what we are talking about, but also has accountability—they have no cases to date. None, zero. This has been a surprise to the industry and to other health observers in California. There have been 200 appeals out there. Mr. President, 65 percent of those appeals have been decided in favor of the HMO, but they still have not had those cases brought to court. But what you do have is guarantees to patients, such as the ones we have outlined here in this particular list. That has been true.

Finally, we have about 50 million Americans through their own contract—State and county workers—who have the opportunity to sue the HMOs under that particular contract.

We don't find the kind of abuses the naysayers will talk about in terms of this legislation, and we find their premiums are very much along the lines of the others.

We are looking forward to this debate tomorrow. I welcome the opportunity to finally bring this bill up. I am grateful to the leadership of Senator DASCHLE who has urged us to move on this in a timely way. In the past, we haven't been able to bring this up in the way we will tomorrow—as a free and open debate. We have had to bring it up in other circumstances, at other times, using the rules of the Senate to insist that the Senate address it. Now we will have the chance for a free and open debate. We want progress on this legislation. It is necessary.

In the last week, we were able to work out—with the administration and others—a very solid result for education reform. I am still not satisfied it will benefit all the children it should because although the authorization will ensure that all children will benefit, we are going to have to make an issue on those questions. I wish we had that same opportunity on health care as well because this protection is of such enormous importance to families across the Nation.

I look forward to the debate. I hope we can get to this bill in a timely way. We had a full opportunity to examine and look at the various provisions. We already debated and acted on most of these provisions 2½ years ago. This is a substantive matter with which Members should be familiar. The need is paramount.

I look forward to working with our colleagues on all sides of the aisle. I look forward to, hopefully, working with the administration so we can enact legislation that will make sure that when doctors make a decision with a family, it will be a decision that will stand. Doctors need that kind of protection. Health professionals need that protection. Importantly, patients need that protection.

That is what this legislation is really all about. We look forward to working with our colleagues to make sure we get the job done.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Carolina.

Mr. HELMS. Mr. President, I ask unanimous consent that it be in order for me to deliver my remarks at my seat.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

#### SETTING THE RECORD STRAIGHT ABOUT J.A. JONES CO.

Mr. HELMS. Mr. President, the distinguished Senator from Virginia (Mr. ALLEN) last week emphatically called the hands of various media for having inaccurately reported the Senator's position on the World War II Memorial and the American firm (and its German parent company) selected to build the memorial.

I feel obliged to comment as well, not only to commend the able Senator from Virginia for speaking out, but to emphasize that the lead contractor for the World War II Memorial is a distinguished North Carolina company.

J.A. Jones Construction Company is a 112-year-old Charlotte enterprise which deserves better than to have bitter fringe groups try to impugn the integrity and historic citizenship of such a well-established firm.

Business is business, and it's understandable that losing bidders on any project will be disappointed. But for such a prestigious U.S. company as J.A. Jones to be unjustifiably criticized certainly is an inappropriate exercise on the part of the losing bidders.

For the purpose of rejecting the activities by fringe groups, I feel it appropriate that the CONGRESSIONAL RECORD reflect the specific role that J.A. Jones Construction Company has played in supporting the United States and its national defense during the 112 years that J.A. Jones Company has been in business.

While this is not a complete list, it is sufficiently detailed for me to make clear the kind of corporate citizen J.A. Jones Construction Company has been:

The construction of nine American military bases that trained U.S. troops for World War II;

The construction and operation of the Navy Shipyard in Panama City, FL, and the operation of the Navy Shipyard at Brunswick, GA. Between the two facilities, J.A. Jones employees built more than 200 *Liberty* Class warships during World War II;

Selection as one of the first American companies to work in a war zone, constructing air bases and other facilities in and around Saigon during the Vietnam war;

Construction of the Washington Mall Reflecting Pool, the West Wing of the White House, the East Wing of the National Gallery of Art, the East and West Fronts of the Capitol, the Smithsonian Air and Space Museum, the Natural Museum of History addition and

renovation, and the National Gallery of Art Sculpture;

The continued involvement in building and maintaining military bases and facilities across the country; and

The current reconstruction of the two U.S. Embassies in Africa destroyed by terrorist bombings.

Considering the circumstances, I feel it only fair that a statement issued by the president of J.A. Jones Construction Company be made a part of the RECORD at this point. President John D. Bond III identified significant aspects of his company's service to America.

Mr. President, I ask unanimous consent that the statement be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### STATEMENT OF JOHN D. BOND III

J.A. Jones' 112-year history is an important and classic case study in corporate patriotism and dedication to a free world. In the military buildup in the 1930s before the U.S.'s involvement in World War II, J.A. Jones built nine military bases, from the ground up, in Alabama, Georgia, Mississippi, North Carolina and South Carolina. These bases provided everything our troops needed to prepare for their crucial role in saving the world.

During the war, J.A. Jones built and then operated the Navy Shipyard in Panama City, Fla., and took over operations of the Navy Shipyard at Brunswick, Ga. At these two crucial locations, J.A. Jones employees built more than 200 *Liberty* Class warships at an incredible rate of 12 per month. In 1943 and 1944, workers donated their time on Christmas Day to continue working and get the ships to the Allied and U.S. Armed Forces who so desperately needed them to win the war.

Scores of J.A. Jones employees served in the war, including Edwin Jones, Jr., who would later become chairman of the company after serving with the Marines and taking part in the deadly fighting at Iwo Jima.

J.A. Jones' commitment to our nation and its men and women in uniform has continued over the years. In Vietnam, J.A. Jones was one of the first American companies to actually work in a war zone when it built air bases and other facilities in and around Saigon. J.A. Jones' close ties with the U.S. military remain just as strong today as our employees continue to build and manage bases and facilities around the world.

In discussing the relationship between Philipp Holzmann and J.A. Jones, it also is important to look at history. The two companies first worked together in the mid-1970s on U.S. Army Corps of Engineers projects in Saudi Arabia. J.A. Jones was looking to expand its global presence, and Philipp Holzmann saw potential in the U.S. Philipp Holzmann bought J.A. Jones in 1979. Edwin Jones Jr., the World War II veteran who fought at Iwo Jima, was chairman of J.A. Jones at the time of the sale.

We are in fact a global economy. The very fact that Germany has become a free capitalistic country and trusted American ally is testament to the United States' and post-World War II Allied commitments to rebuilding the free world. Unfortunately, in the discussions of where the World War II Memorial will be built and who will build it, we have lost sight of the true purpose of this project: to honor the veterans who saved the world. I believe the history of J.A. Jones Construction and its people makes it the ideal choice for the historic project.